

Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 11-12, 2002

Reference No.: 2.8(f)
Action Item

From: ROBERT L. GARCIA
Chief Financial Officer

Prepared by: Terry Abbott
Division Chief
Local Assistance

Ref: **WAIVER REQUEST**
ASSEMBLY BILL (AB) 1012 USE IT OR LOSE IT PROVISIONS
REGIONAL AGENCY APPORTIONED FEDERAL FUNDS
WAIVER 02-46

ISSUE:

The Department of Transportation (Department) provided the third (3rd) cycle notification to regional agencies on December 3, 2001. The deadline to obligate funds prior to potential reprogramming by the California Transportation Commission (Commission) is December 3, 2002. Some agencies require extensions of the obligation deadline for Congestion Mitigation and Air Quality (CMAQ), Regional Surface Transportation Program (RSTP), and Regional Transportation Enhancement Activity (R-TEA) funds.

RECOMMENDATION:

The Department recommends approval of the extension requests submitted for Riverside, Lassen, Imperial, and Mariposa counties. The extensions are for 12 months and total \$3,497,803 (\$604,719 for R-TEA, \$1,062,778 for RSTP, and \$1,830,306 for CMAQ). The attachment identifies the amount for each region and the reason for the extension. Additional information will be provided at the January meeting for those agencies that are still compiling extension information.

BACKGROUND:

Sections 182.6 and 182.7 of the Streets and Highways Code stipulate that RSTP and CMAQ funds apportioned for programming by regional planning agencies be obligated within three years of the start of the federal fiscal year (FFY) for which the funds are received. The Commission may reprogram funds not obligated within the three-year period. The Department is responsible to notify regional agencies of any funds entering the third year. Regional agencies

are then responsible to provide obligation plans for any funds at risk of potential reprogramming. Section 182.6 of the Streets and Highways Code is also used to apply these provisions to R-TEA funds.

There are several factors that have prevented regions from obligating their Cycle 3 balances. Imperial Valley Association of Governments (IVAG) has both RSTP and R-TEA balances subject to reprogramming. The balance is a result of coding errors. Several projects were mistakenly shown as being obligated by IVAG when the obligations should have been credited to other regions. The error was just recently discovered. As a result, IVAG has not had adequate time to obligate these additional funds.

Lassen has requested a twelve-month extension for an R-TEA project. This project has encountered unexpected environmental delays due to the listing of the Carson Wandering Skipper as an endangered species. The region is now searching for another acceptable site for this project.

Mariposa County does not yet have an approved DBE program. Until they receive that approval, they are unable to obligate additional funds. They are anticipating approval of the DBE program within the next six months.

Several regions have large balances subject to reprogramming, and have projects ready to obligate. However, the federal budget has not been signed, and available Obligation Authority (OA) is limited. The Department is currently operating under a federal Continuing Resolution that provides a pro-rated share of anticipated OA. The current Continuing Resolution expires November 22, 2002. It is anticipated that additional Continuing Resolutions will be offered until January, 2003. As of September 30, 2002, Riverside County had a \$9 million CMAQ Cycle 3 balance subject to reprogramming. They were just able to process an obligation for \$6.9 million, but are waiting for additional OA to become available before submitting additional obligations.

Attachment

**AB 1012 Cycle 3 Extension Requests
Summary Table
(As of November 18, 2002)**

| Region | CMAQ | RSTP | R-TEA | Total |
|---------------|--------------------|--------------------|----------------|--------------------|
| Mariposa | | | \$45,285 | \$45,285 |
| Riverside | \$1,830,306 | | | \$1,830,306 |
| Lassen | | | \$249,000 | \$249,000 |
| Imperial | | \$1,062,778 | \$310,434 | \$1,373,212 |
| Total | \$1,830,306 | \$1,062,778 | 604,719 | \$3,497,803 |

AB 1012 Cycle 3 Extension Requests
Item 2.8(f)
Waiver Request 02-46

| | | |
|---|-------------------------|-----------------------------------|
| Regional Agency | | |
| Local Agency | Extension Amount | Number of Months Requested |
| | Fund Type | Extended Deadline |
| | | CT Recommendation |
| Reason for Project Delay: | | |
| Imperial Valley Association of Governments | | |
| City of El Centro | \$310,434 | 12 months |
| | R-TEA | 12/3/03 |
| Support | | |
| The R-TEA balance subject to reprogramming for Imperial Valley Association of Governments had been calculated incorrectly due to project coding errors. The balance was understated. These coding errors were not discovered until November. IVAG has not had adequate time to develop an obligation plan for the additional dollars subject to AB 1012 reprogramming. Therefore, a 12 month extension is requested for the obligation of \$310,434. | | |
| Lassen County Local Transportation Commission | | |
| | \$ | |
| Lassen County Department of Public Works | 249,000 | 12 months |
| | R-TEA | 12/3/03 |
| Support | | |
| After months of negotiations with the Army Corps of Engineers (ACE) for approval of a wetland mitigation site, Lassen County finally received approval for an alternate site at Honey Lake Wetland Mitigation Bank (HLWMB). The original proposed site was determined to be unacceptable by ACE. During final negotiations for an agreement with the California Department of Fish and Game for the HLWMB, the U.S. Fish and Wildlife Service made an emergency listing for the Carson Wandering Skipper as an endangered species. The November 29, 2001 listing placed the construction of the wetland bank on hold until the U.S. Fish and Wildlife Service could be satisfied that compliance with Section 7 of the Endangered Species Act had been met. The HLWMB had been on a schedule for construction during summer 2002. Concurrently, with the required studies at the HLWMB to satisfy the U.S. Fish and Wildlife Service, Lassen County and the City of Susanville have been proceeding with an option for another alternative site that does not have the Carson Wandering Skipper habitat. An alternative site has been located which appears to be acceptable to the ACE. Final negotiations and agreements are currently being completed with the ACE and the property owner of the site. This project has experienced a 12-month delay due to the Carson Wandering Skipper listing as an endangered species and the process for locating another wetland site. Thus, Lassen County is asking for a 12-month extension. | | |
| Mariposa County | | |
| Mariposa County | \$45,285 | 12 months |
| | R-TEA | 12/3/03 |
| Support | | |
| Mariposa County is in the process of developing an approved DBE program. They are unable to obligate additional federal funds until the DBE program is approved. They anticipate approval within the next 12 months. Therefore, they are requesting a 12 -month extension. | | |

**AB 1012 Cycle 3 Extension Requests
Item 2.8(f)
Waiver Request 02-46**

| | | |
|--|-------------------------|-----------------------------------|
| Regional Agency | | |
| Local Agency | Extension Amount | Number of Months Requested |
| | Fund Type | Extended Deadline |
| | | CT Recommendation |
| Reason for Project Delay: | | |
| Imperial Valley Association of Governments | | |
| | \$1,062,778 | 12 months |
| | RSTP | 12/3/03 |
| | | Support |
| <p>Inperial Valley Association of Governments RSTP balance subject to reprogramming increased as a result of identifying several projects that were miscoded. These projects were initially shown as obligations under Imperial Valley, thereby reducing the balance subject to reprogramming for Cycle 3. When the error were discovered, the balance subject to reprogramming for Imperial Valley Association of Governments increased by a large amount. These errors were not discovered until early November. The local agency is in the process of obligating approximately \$1.2 million on an RSTP project which is more than enough to offset the current balance subject to reprogramming. However, the local agency will not be able to obligate these funds prior to the December 3, 2002 deadline. As a result, a 12 -month extension is requested for the obligation of \$1,062,778. This time extension will also allow an adequate supply of OA to become available for this obligation.</p> | | |

**AB 1012 Cycle 3 Extension Requests
Item 2.8(f)
Waiver Request 02-46**

| | | |
|--|-------------------------|-----------------------------------|
| Regional Agency | | |
| Local Agency | Extension Amount | Number of Months Requested |
| | Fund Type | Extended Deadline |
| | | CT Recommendation |
| Reason for Project Delay: | | |
| Riverside County Council of Governments | | |
| | \$1,830,306 | 12 months |
| | CMAQ | 12/3/03 |
| Support | | |
| Riverside County does have projects that will use the remainder of their AB 1012 Cycle 3 CMAQ funds. The funds will be used for signal interconnects and intersection improvements. They also expect to obligate approximately \$35 million in CMAQ funds by May of 2003 for the High Occupancy Vehicle lane project on State Route 60. However, the federal budget has not been signed, and available Obligation Authority (OA) is limited. The Department is currently operating under a federal Continuing Resolution that provides a pro-rated share of anticipated OA. In order to ensure adequate OA is available to all regions having AB 1012 Cycle 3 balances, some regions have agreed to postpone some of their obligations in order to allow other regions to use the available OA. Riverside was able to use approximately \$6.9 million in OA in November., and has agreed to postpone further obligations until adequate OA is available. Therefore, a twelve month extension is requested. | | |